

REMARKS

Entry of the foregoing, re-examination and reconsideration of the subject matter identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.112, and in light of the remarks which follow are respectfully requested.

In accordance with the present amendment, claims 45, 55, 59-64 and 68 have been canceled without prejudice or disclaimer. Claims 35, 37, 38 and 40-43 have been amended in response to §112 issues raised in the Office Action. Claims 35, 37-44, 46-54, 66 and 67 remain pending in this application.

In response to the statement in paragraph (1) of the Office Action, claim 68 has been canceled. While not necessarily agreeing with the Examiner's position, claim 68 was canceled without prejudice or disclaimer solely to expedite prosecution.

Claims 35, 37-55, 59-64 and 66-68 were rejected under 35 U.S.C. §112, second paragraph, for the reasons sets forth in paragraph (2) of the Office Action. Reconsideration of this rejection is respectfully requested in view of the above amendments and for at least the reasons which follow.

The legal standard for determining compliance with the second paragraph of 35 U.S.C. §112 is whether the claims reasonably apprise those of ordinary skill in the art of their scope. See In re Warmerdam, 33 F.3d 1354,1361, 31 USPQ2d 1754,1759 (Fed. Cir. 1994). In determining whether this standard is met, the definiteness of the language employed in the claim must be analyzed, not in a vacuum, but always in light of the teachings of the prior art and of the particular

application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art. In re Johnson, 558 F.2d 1008,1015, 194 USPQ 187,193 (CCPA 1977).

While not necessarily acquiescing in the Examiner's position regarding this rejection, Applicant has amended the claims in an effort to respond to the various objections. Thus, claim 35 has been amended to add a step of determining the risk of flammability or the order of mixing the components, based on a review of data received from the steps previously recited in the claim. Other claims have been amended to provide antecedent basis for various terminology present in the claims. The dependencies of claims 40-43 were changed to provide antecedent basis for reference to both modes of operation.

Applicant requests reconsideration and/or clarification of the Examiner's statement that claim 44 has "no relationship between the flammability risk of the determining step and the order of mixing used" and that claims 46-48 and 51-53 "are not properly dependent upon claim 35 since there does not appear to be an actual mixing that occurs in claim 35."

It is submitted that the scope of the claims, when read in the light of the specification by those of ordinary skill in this art, would be readily apparent to the routineer skilled in this technology. The present claims should not be read in a vacuum.

For at least the reasons advanced above, the present claims, as currently amended, are free of the §112, second paragraph, objections raised in the Office Action. As such, it is requested that the §112 rejection be withdrawn.

Claim 45 was rejected under 35 U.S.C. §102(b) as anticipated by Yoshikawa (Koatsu Gasu, 1993, 30, 273-285) for the reasons given in paragraph (4) of the Office Action. In addition, claims 55 and 59-64 were rejected under 35 U.S.C. §103(a) as unpatentable over Yoshikawa as applied to claim 45, and further in view of Clark (Chemical Engineering Progress, January, 1996, pp. 65-77) for the reasons given in paragraph (6) of the Office Action.

Respectfully, Applicant does not agree with these prior art rejections. However, claims 45, 55 and 59-64 have been canceled in an effort to reduce the number of issues and significantly expedite prosecution of this application.

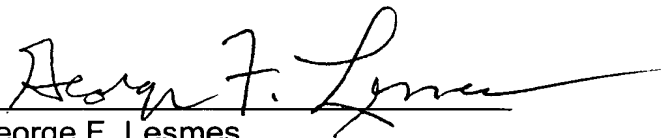
From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned at (703) 838-6683 at his earliest convenience.

Respectfully submitted,

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